

## IN THE U.S. PATENT AND TRADEMARK OFFICE

Application No. : 09/785,700 Confirmation No. : 4280  
Applicant : Szabo, *et al.*  
Filed : February 16, 2001  
TC/A.U. : 3622  
Examiner : LASTRA, DANIEL  
Docket No. : 6169-156  
IBM Docket No. : BOC9-2000-0017

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**DECLARATION UNDER 37 C.F.R. § 1.131**

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, James J. Toohey, a citizen of the United States, residing in Boca Raton, Florida, hereby declare and state as follows:

1. I was employed by International Business Machines Corporation (IBM) of Armonk, New York, at the time the above-identified application was conceived. I make this declaration in support the above-identified application.
2. IBM invests substantial time and effort into the research, development, and marketing of their products, and in an effort to protect its rights in all new inventions, IBM requests that all employees prepare and submit a confidential Invention Disclosure Forms upon the conception of an invention by the inventor(s).
3. As a named co-inventor for this invention, I and my co-inventor, Robert M. Szabo, prepared and submitted the attached Invention Disclosure No. BOC8-2000-0027 pursuant to the IBM guidelines. The disclosure describes concepts of the invention that I and my co-inventor devised during February of 2000 and which were initially described in an entry to Robert M. Szabo's notebook made on February 8, 2000.
4. IBM Confidential Invention Disclosure BOC8-2000-0027 was originally submitted for consideration to an IBM Attorney/Patent Professional for preparation of a patent application on March 20, 2000, and insubstantially modified on April 13, 2000. Consistent with the internal procedures governing the use of such disclosures, the portion of the disclosure describing the actual invention itself was in no way modified after being submitted on March 20,

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2000. The disclosure represents a fully conceived and workable invention as written. I reviewed the claims of the above-designated patent application prior to submission of the application to assure the claimed invention was fully supported by the disclosure in light of the invention disclosure and art known at the time of the disclosure.

5. Following the submission of Invention Disclosure No. BOC8-2000-0027, I diligently worked with IBM Attorney/Patent Professionals and outside counsel to prepare and file the above-designated patent application. During the period from at least as early as March 20, 2000, to the filing of the above-identified application on February 16, 2001, I reviewed various documents and provided input needed for preparing the application, including reviewing and providing comments on drafts of the application prepared by outside counsel.

6. I make this Declaration to establish that my co-inventors and I conceived of the present invention at least as early as March 20, 2000, and exercised due diligence from that date to February 16, 2001, the filing date of the above-identified patent application.

7. I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the above-identified patent application or any patent issuing thereon.

James J. Toohey  
James J. Toohey

Date: November 6, 2006

(WP347337;1)

**Disclosure BOC8-2000-0027**

Created By: Bob Szabo Created On: 03/20/2000 09:32:43 AM  
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Required fields are marked with the asterisk (\*) and must be filled in to complete the form.

**Summary**

Status	Under Evaluation
Processing Location	BOC
Functional Area	Customer Relationship Management Div 81
Attorney/Patent Professional	Richard Tomlin/Boca Raton/IBM
IDT Team	Jim Toohey/Fort Lauderdale/IBM
Submitted Date	03/31/2000 03:46:27 PM
Owning Division	IBM
Incentive Program	
Lab	
Technology Code	

**Inventors with Lotus Notes IDs**

Inventors: Jim Toohey/Fort Lauderdale/IBM, Bob Szabo/Fort Lauderdale/IBM

Inventor Name > denotes primary contact	Inventor Serial	Div/Dept	Manager Serial	Manager Name
Toohey, James J.	200006	81/8100	200006	Toohey, James J.
Szabo, Robert M. (Bob)	200006	81/8100	200006	Toohey, James J.

**Inventors without Lotus Notes IDs****IDT Selection**

IDT Team: Jim Toohey/Fort Lauderdale/IBM	Attorney/Patent Professional: Richard Tomlin/Boca Raton/IBM
Response Due to IP&L : 05/13/2000	

**Main Idea**

**Title of disclosure (In English)**  
 Method and Apparatus to Stimulate Shopping

**Idea of disclosure**

1. Describe your invention, stating the problem solved (if appropriate), and indicating the advantages of using the invention.

Over the years, merchants (both conventional and on-line) have devised advertising methods in an attempt to lure people to shop in their stores. Mass marketing allows a merchant to reach a broad base of possible consumers. Using various delivery methods (newspaper, mail, in-store flyers, etc.), a merchant will attempt to incite a consumer to shop via coupon, sale offers, etc. More recently, on-line commerce systems have made it possible to directly target a consumer with shopping incentives specifically tailored

## Method and Apparatus to Stimulate Shopping - continued

to their personal preferences. For example, commerce systems offered by IBM (WebSphere Commerce Suite) and Broadvision address this need.

Conventional merchants' direct marketing capabilities have been limited to using demographic data. In addition, on-line merchants have access to data provided by the consumer (personalization), and inferences drawn from past purchases (data mining) in their attempts to design an advertising campaign to reach the consumers most likely to make a purchase. Unfortunately, these systems are still not flexible enough to help merchants optimally manage their business. For example, when a merchant discovers an excess inventory situation, today's best direct marketing methods limit the contact to those consumers that have a declared or inferred preference for the product.

Our invention allows a merchant to contact consumers who actually need the product. As a result, a merchant will be able to move the excess inventory quickly. For purposes of the following discussion, the term 'advertising' includes, but is not limited to, delivery of coupons, advertisements, up-selling, cross-selling as a way of rationally enticing the consumer to purchase goods and services offered by a merchant. Furthermore, the method and apparatus disclosed herein is not limited to on-line merchants only. We will show that traditional brick-and-mortar operations may benefit as well. Finally, the buyer/seller relationship includes business to business relationships as well.

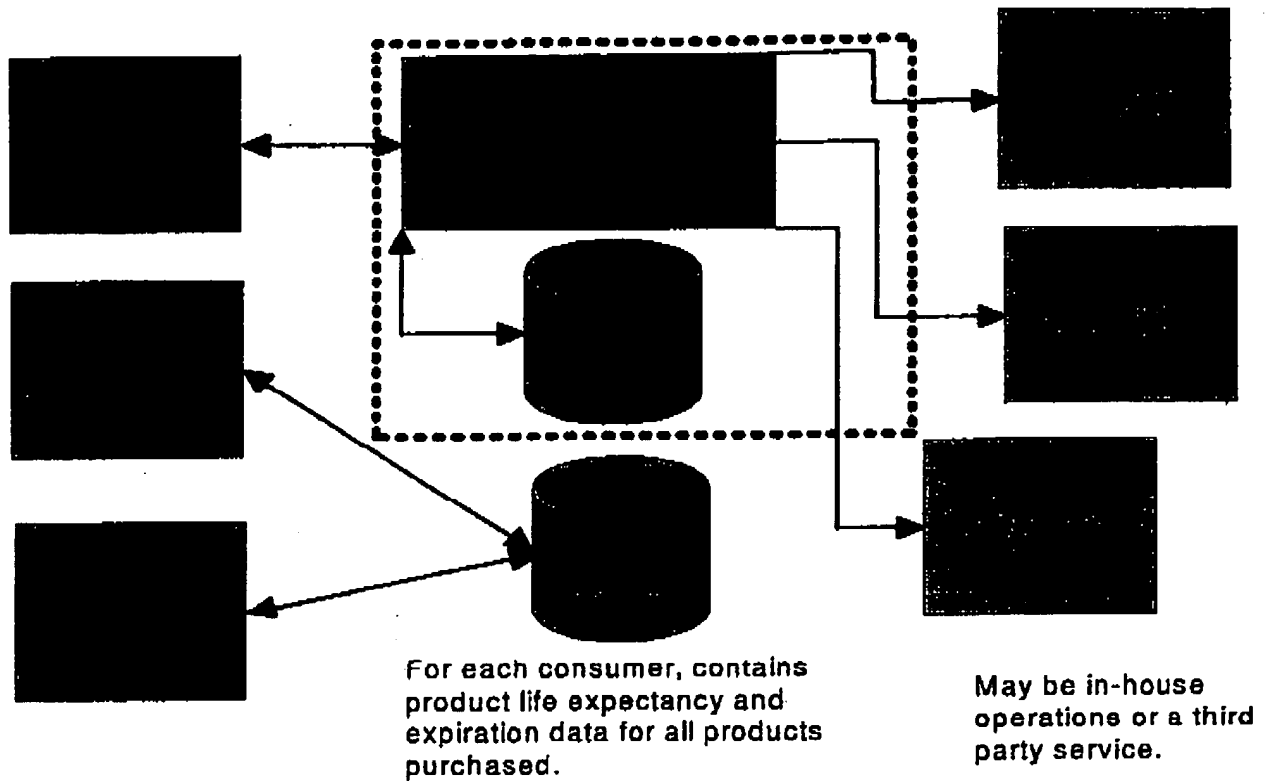
2. How does the invention solve the problem or achieve an advantage, (a description of "the invention", including figures inline as appropriate)?

Our invention is based on the novel combination of a method/apparatus that is able to track the expiration date and/or life expectancy of items purchased by a consumer with a method/apparatus enabling the targeted delivery of advertising. The purchases may be made on-line or in a conventional bricks-and-mortar store. In the case of the conventional store, the consumer needs to be identified to the merchant's Point of Sale (POS) system. Frequent shopper identifications would serve this purpose. Advertising may be delivered using existing (or new) methods of on-line delivery or traditional mass-market methods (newspapers, flyers, mailings, etc.)

Delivery of the system initiated incentive can be handled by in-house systems or through a third party service provider. Incentives may be either direct or indirect. In the direct case, the merchant may mail or e-mail an incentive for a list of items that the merchant would like to promote. If the contact is on-line, an electronic shopping list might be created and delivered to achieve the same end. In the indirect case, incentives may be offered via coupons, frequent shopper points, specials, etc. for the items being promoted. In either case, the notification may or may not give the consumer an indication that replenishment was needed based on items previously purchased expiring or exceeding their useful life.

Method and Apparatus to Stimulate Shopping - continued

## Shopping Stimulator



~~On the basis of the foregoing, the present invention has been identified by others (notwithstanding the fact that the present invention is a novel and non-obvious improvement over the prior art) and the present invention is a novel and non-obvious improvement over the prior art.~~

~~For the best of the present invention, the present invention is a novel and non-obvious improvement over the prior art.~~

~~For the best of the present invention, the present invention is a novel and non-obvious improvement over the prior art.~~

~~1. If the invention is implemented in a product or process, the present invention is a novel and non-obvious improvement over the prior art.~~

~~2. If the invention is implemented in a product or process, the present invention is a novel and non-obvious improvement over the prior art.~~

~~3. If the invention is implemented in a product or process, the present invention is a novel and non-obvious improvement over the prior art.~~

**\*Critical Questions ( Questions 1 - 7 must be answered)**

<b>*Question 1</b> <del>On the basis of the foregoing, the present invention has been identified by others (notwithstanding the fact that the present invention is a novel and non-obvious improvement over the prior art) and the present invention is a novel and non-obvious improvement over the prior art.</del>	
<b>*Question 2</b> <del>On the basis of the foregoing, the present invention has been identified by others (notwithstanding the fact that the present invention is a novel and non-obvious improvement over the prior art) and the present invention is a novel and non-obvious improvement over the prior art.</del>	<input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO